

FREEDOM COURT REPORTING

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 MARSHALL DIVISION
4

5 PATTY BEALL, MATTHEW MAXWELL,
6 TALINA MCELHANY AND KELLY
7 HAMPTON, individually and on
8 behalf of all other similarly
9 situated;

10 Plaintiffs,

11 vs.

Civil Action

12 No. 2:08-CV-422 TJW

13 TYLER TECHNOLOGIES, INC.
14 AND EDP ENTERPRISES, INC.,
15 Defendants.

16
17 PAGE 1 TO 139
18

19 The Deposition of LAURA MILBURN,
20 Taken at 400 Renaissance Center, Suite 2160,
21 Detroit, Michigan,
22 Commencing at 10:01 a.m.,
23 Wednesday, September 1, 2010,
24 Before Jacquelyn S. Fleck, CSR 1352, RPR, CRR, RMR,
25

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1 APPEARANCES:

2 LAUREEN F. BAGLEY

3 Sloan, Bagley, Hatcher & Perry Law Firm

4 101 East Whaley Street

5 Longview, Texas 75606

6 (903) 757-7000

7 Appearing on behalf of the Plaintiffs.

9 FARIN KHOSRAVI

10 Morgan, Lewis & Bockius, LLP

11 1717 Main Street

12 Suite 3200

13 Dallas, Texas 75201-7347

14 (214) 466-4000

15 Appearing on behalf of the Defendants.

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1 would that have been?

2 A. I don't. I can't recall exactly when it was. We were
3 in St. Louis more than one -- on one occasion together.

4 Q. Were you in St. Louis --

5 A. It was cold.

6 Q. If it was cold -- okay.

7 So you think it might have been September --
8 was it towards the end of your employment? Your
9 employment, again, ended around November 2009.

10 A. No. I'd say it was -- I would say it was earlier in
11 2009, when it was winter, or spring.

12 Q. So January, February, March time period --

13 A. Yes.

14 Q. -- of 2009?

15 Sitting here today, Ms. Milburn, you believe
16 that Tyler Technologies owed you overtime pay for any
17 hours worked over 40; is that correct?

18 A. Correct.

19 MS. BAGLEY: Object to form.

20 BY MS. KHOSRAVI:

21 Q. And when did you form this belief? When did you learn
22 that the company should have paid you overtime pay for
23 any hours that you worked over 40?

24 A. When did I learn that?

25 Q. When did you realize that the company should have paid

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1 you overtime pay for any hours worked over 40?

2 A. I can't -- I can't recall when I realized that.

3 Q. When you worked with Lisa Seymour in St. Louis did you
4 believe that the company owed you overtime pay at that
5 point?

6 A. Yes.

7 Q. What about before you went to St. Louis; did you
8 believe that the company owed you overtime pay?

9 A. I don't know. I think -- I'm not sure when I started
10 traveling. St. Louis was one of my first sites, and it
11 was around that time.

12 Q. And what prompted you to form a belief that the company
13 should be paying you overtime pay?

14 A. The schedule, the overtime hours.

15 Q. So once you started working more than 40 hours per week
16 you thought, wait a minute, I'm working more than 40
17 hours per week, the company should pay me overtime?

18 MS. BAGLEY: Form.

19 A. Correct.

20 BY MS. KHOSRAVI:

21 Q. When did you start working overtime for Tyler
22 Technologies? And let me put this in some perspective.
23 You started working for the company around June 9,
24 2008, so that was the beginning of your employment. So
25 think back and tell me, during what month was it that

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1 you started working more than 40 hours per week?

2 A. It started with my first site visit.

3 Q. Do you remember when your first client visit was?

4 A. I could not say for certain.

5 Q. How many months was it that you were working for Tyler
6 Technologies before they sent you to a client site?

7 And let me help you through -- well, no, I
8 want you to help me through this. I'm imagining if you
9 started working at Tyler Technologies in June 2008, on
10 June 9, 2008, the next week they wouldn't just send you
11 to a client site because --

12 A. I would say two months. You know, it was two months.

13 Q. So by August 2008 you had started to go to a client
14 site?

15 A. Correct.

16 Q. And by then you believe that you were owed overtime for
17 any hours that you were working over 40 per week?

18 A. I phrased it as extra compensation, yes.

19 Q. But in this lawsuit you're not saying extra
20 compensation. You're asking for overtime pay; is that
21 not right?

22 A. Yes. Correct.

23 Q. So you believe that the company owed you overtime pay;
24 correct?

25 A. Correct.

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1 DEPOSITION EXHIBIT 1
2 MARKED BY THE REPORTER
3 FOR IDENTIFICATION
4 BY MS. KHOSRAVI:
5 Q. Ms. Milburn, I'm going to hand you what's been marked
6 as Exhibit Number 1. Tell me if you recognize this
7 document.
8 A. Correct.
9 Q. This -- the document I handed you is -- Exhibit 1 is
10 the consent to opt into this lawsuit that you signed on
11 September 14, 2009; is that correct?
12 A. Yes.
13 Q. And is this the first time, September 14, 2009, is that
14 the first time that you consented to opt into this
15 lawsuit?
16 A. Yes.
17 Q. Ms. Milburn, have you ever been involved in any other
18 lawsuits besides this one?
19 A. No.
20 Q. Have you filed any complaints with the Department of
21 Labor or the Equal Employment Opportunity Commission
22 against Tyler Technologies?
23 A. No.
24 Q. What about against any other employers?
25 A. No.

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1 Q. How many days would you say you did that? Meaning you
2 got into the office in the morning, Good morning
3 everybody, you walk into your office, you sit down and
4 you start working with the software and reviewing
5 documents. How many days would you do that?

6 A. Every day that I wasn't at a client site.

7 Q. Right. Okay. So then that's what I would like to
8 know. I would like to know how many -- starting June
9 9th, 2008, when you first went to work, how many weeks
10 did you continue to do that, go to your office, sit
11 there and train yourself on how to use the software?

12 A. Until my first client visit. And then --

13 Q. Which was when?

14 A. I don't remember.

15 Q. This one I want you to estimate.

16 MS. BAGLEY: Form.

17 A. August, September. It was my -- probably my first
18 client visit, somewhere around after two months of
19 employment.

20 BY MS. KHOSRAVI:

21 Q. So you think, you think June, the whole month of June,
22 starting from June 9 until the end of June, you were
23 training yourself on the system?

24 A. Correct.

25 Q. Do you -- do you remember whether or not you were sent

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1 to a client site in June 2008?

2 A. I don't think I was.

3 Q. So the first month of June we're done with. You were
4 training yourself. Next comes July 2008. You were
5 coming to the office, you were training yourself. Were
6 you sent to a client site in July 2008?

7 A. I don't know.

8 Q. That first month that you were working for Tyler
9 Technologies training yourself --

10 MS. BAGLEY: The expense reports I --

11 BY MS. KHOSRAVI:

12 Q. That first month that you were training yourself on
13 Tyler Technologies software, what time did you get to
14 the office in the morning?

15 A. I typically got to the office around 8:00.

16 Q. And I'm not talking about later on, once you actually
17 learned what you were supposed to do. I'm only talking
18 about initially, when you were still trying to figure
19 out the software and teach yourself and do
20 self-studies. You still got to the office at 8:00 --

21 A. Correct.

22 Q. -- during that time period?

23 And when did you leave the office?

24 A. Between 4:30 and 5.

25 Q. Okay.

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1 A. Typically.

2 Q. Why do you say typically?

3 A. I -- I wouldn't say -- I mean that was the time frame,
4 8 to 5.

5 Q. 8 to 5 is when you were expected to be at the office
6 during that time period; correct?

7 A. Correct. Correct.

8 Q. Was there any reason to stay at the office beyond 5:00
9 during that initial period when you were training
10 yourself?

11 A. No.

12 MS. KHOSRAVI: Good point, Lauren.

13 BY MS. KHOSRAVI:

14 Q. Ms. Milburn, if you were ever sent to a client site,
15 did you typically fill out an expense report for the
16 expenses that you incurred during your trip to a client
17 site?

18 A. Yes.

19 Q. Was there ever a time that you went to a client site
20 and you did not incur any expenses that Tyler
21 Technologies needed to reimburse you for?

22 A. No.

23 MS. KHOSRAVI: Okay. Let's mark this.

24 DEPOSITION EXHIBIT 3

25 MARKED BY THE REPORTER

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1 A. To go on-site. I'm looking at the notes. It says
2 there was travel to St. Louis and St. Thomas. And when
3 that -- when there was travel coming up, I would be
4 potentially working later than 40 hours by preparing
5 whatever it was.

6 Q. Now, I notice on this document it says potentially --
7 travel coming up September 15th and September 24th.

8 A. Mm-hmm.

9 Q. You would be traveling -- you would be preparing for
10 the travel a month in advance of the upcoming travel?

11 A. Well, you have to realize I was a new employee, so I
12 was learning everything.

13 Q. Right. So that's my question, how long in advance of a
14 trip you started preparing for the trip.

15 A. As soon as I heard about it I would start preparing for
16 it.

17 Q. And what did you do to prepare for the trip?

18 A. I would print out whatever documentation, training
19 documentation that pertained to the session, and I
20 would practice on the -- in the demonstration software
21 on my laptop so I could be well-versed in front of the
22 client.

23 And Lisa Seymour and I did a lot of
24 self-study activities together.

25 Q. I want to talk about when you actually went to a client

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1 FOR IDENTIFICATION

2 BY MS. KHOSRAVI:

3 Q. While you were employed at Tyler Technologies,
4 Ms. Milburn, did you record your time?

5 A. No.

6 Q. You never recorded your time while you were working for
7 Tyler Technologies?

8 MS. BAGLEY: Form; asked and answered.

9 BY MS. KHOSRAVI:

10 Q. You're hesitating to answer. Tell me, is there --

11 A. I'm trying to remember if -- if this was a prior
12 company I worked with or this was Tyler, whether I had
13 to go on-line and submit a time sheet. I think it was
14 exception-based. You only had to submit time.

15 Q. Are we talking about Tyler now or your previous
16 employer?

17 A. That's what I'm trying to remember.

18 Q. Ah.

19 How did you keep track of how many hours you
20 worked while you were employed at Tyler Technologies?

21 MS. BAGLEY: Form.

22 A. I didn't. Well, I mean I don't understand. What do
23 you mean how did I keep track? I --

24 BY MS. KHOSRAVI:

25 Q. How did Tyler Technologies know how to bill its clients

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1 with respect to the time you spent on a client project?

2 A. It was all handled. It was not in my control at all.

3 Project manager was responsible for that.

4 Q. If you were at the client site for ten hours one day,

5 let's say, were you supposed to record that: I spent

6 at a client site ten hours today doing X, Y and Z?

7 Were you hired or supposed to record that time

8 anywhere?

9 A. Yes, we did trip reports. So we would list the time we

10 got there and the time we left. However, I -- I think,

11 you know, as far as what the client was paying was

12 handled differently.

13 Q. And I don't care what the client was paying. I care

14 about how -- was your time ever billed to the client?

15 Do you know whether your time was ever billed to the

16 client?

17 A. My time was billed.

18 Q. So if you did not record your time -- help me

19 understand this.

20 A. I did record it on the trip report.

21 Q. Trip report. And tell me what a trip report is again.

22 A. It was a daily report that you would -- you'd have to

23 have signed off by the client on what you covered.

24 Q. And did the trip report say: Ms. Milburn was at my

25 offices from, let's say, 8:00 in the morning until 4:00

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1 in the afternoon? Is that what a trip report
2 contained?

3 A. It had the time in, the time out, and the events of the
4 day, and a signature by myself and the client.

5 Q. Would you have the client fill that out once you were
6 leaving the client site?

7 A. We had to get the client to sign off on it.

8 Q. You said we. Who's we?

9 A. Well, implementation consultants is we. I had to have
10 the client sign it.

11 Q. When you say we had to get that done, you were speaking
12 for all the implementation consultants?

13 A. Yes.

14 Q. And how do you know that all the implementation
15 consultants were supposed to do that?

16 A. I don't.

17 Q. Okay. So let's make sure --

18 A. I just know that Joy did and Laura did. So people
19 around me did, but I don't know.

20 Q. The implementation consultants that actually worked
21 with you on the same projects?

22 A. Correct.

23 Q. I see. Now I want to know about your practice,
24 Ms. Milburn. I want to know about you specifically.

25 When you left the client site, did you actually give